

**ENTERED**

February 28, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
LAREDO DIVISION

MARIA DEL ROSARIO DOMINGUEZ,

Plaintiff,

VS.

TARGET CORPORATION,  
INDIVIDUALLY AND D/B/A TARGET  
STORE #2112,

Defendant.

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CIVIL ACTION NO. 5:18-CV-23

**ORDER**

On February 8, 2019, U.S. Magistrate Judge Diana Song Quiroga issued a Report and Recommendation in accordance with 28 U.S.C. § 636(b)(1) recommending that Defendant's Motion to Dismiss be denied. (Dkt. No. 42). Plaintiff has since filed objections to the Report and Recommendation, arguing that the magistrate court applied an incorrect pleading standard and erroneously concluded that Plaintiff adequately stated a claim under either an actual- or constructive-knowledge theory. (Dkt. No. 43).

The Court conducts a de novo review of Plaintiff's objections and applies a plain-error standard of review for the rest of the proposed findings and recommendations. Having considered the entire record, as well as arguments advanced by the parties, the Court **OVERRULES** Defendant's objections in part and hereby **ADOPTS** the Report and Recommendation (Dkt. No. 42) as the findings and opinion of the Court but only to the extent that it concludes that Plaintiff

adequately stated a claim to relief under an actual-knowledge theory. Accordingly, Defendant's Motion to Dismiss (Dkt. No. 31) is **DENIED**.

It is so **ORDERED**.

**SIGNED** February 28, 2019.

A handwritten signature in black ink, reading "Marina Garcia Marmolejo", written over a horizontal line.

Marina Garcia Marmolejo  
United States District Judge